



Investment Office

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AGENDA ITEM 6b

TO: MEMBERS OF THE INVESTMENT COMMITTEE

- I. SUBJECT:** Legislative Reports: Holocaust Era and Northern Ireland Annual Reports
- II. PROGRAM:** Public Markets
- III. RECOMMENDATION:** Approve Holocaust Era and Northern Ireland Reports for transmittal to the Legislature
- IV. ANALYSIS:**

This report seeks approval to submit to the California Legislature the annual Holocaust Era and Northern Ireland Reports, and to forward letters to companies identified in the reports as having unresolved claims or otherwise requiring corrective action.

Chapter 216, Statutes of 1999 (representing uncodified law), requires CalPERS to monitor and annually report on investment holdings in companies and their affiliates that do business in California and that owe compensation to victims of slave or forced labor during World War II.

Government Code 7513.5 requires CalPERS to investigate and annually submit a report to the Legislature on the extent to which United States and international corporations operating in Northern Ireland, in which CalPERS assets are invested, are adhering to the principles of nondiscrimination in employment and freedom of workplace opportunity in compliance with the laws of Northern Ireland.

Since inception, CalPERS has contracted with the Investor Responsibility Research Center ("IRRC") for extensive monitoring and creation of reports on these topics; CalPERS staff has then used the IRRC reports to prepare the annual legislative reports.

Government Code section 7550.5 (Stats. 2004, ch. 409) implemented a suspension on the preparation and submission of certain reports previously mandated by statute¹. The submission of these reports is now permissive. The CalPERS Legal Office has advised that regardless of the moratorium on reports, staff should continue to perform the monitoring and reporting functions.

At the April 18, 2005 Investment Committee meeting, staff made the following recommendations consistent with the legislative moratorium as well as the desire to post on the CalPERS website information that may be of public interest.

1. Continue to contract with the IRRRC for the monitoring function for both the Holocaust-Era Report and Northern Ireland issues.
2. Work with IRRRC to reach a formal agreement whereby the IRRRC will provide executive summaries to both annual reports, suitable for posting on the CalPERS website.
3. The Corporate Governance Office of the Global Equity Unit will review the IRRRC reports and use the information provided therein in voting proxies and communicating with portfolio companies, as appropriate.

In addition to staff's recommendation, at the April 18, 2005 Investment Committee meeting, staff was directed by the Committee to:

1. Identify companies in the Holocaust-Era Report that have settled their responsibilities.
2. Write to companies included in the Holocaust-Era Report that have not entered into agreements or made other arrangements to settle their responsibilities. This letter would both notify the company that we are posting the Holocaust-Era report on our website and encourage companies to resolve these issues.
3. Write companies identified in the Northern Ireland Report that have repeatedly been identified as participating in or allowing discriminatory practices in the workplace. This letter would both notify the company that we are posting the Northern Ireland Report on our website and encourage the company to review the situation at their Northern Ireland facilities and develop corrective action.

CalPERS staff successfully negotiated with the IRRRC to provide CalPERS Executive Summaries for both the Holocaust-Era and Northern Ireland Reports. The IRRRC also agreed to identify pertinent companies for purposes of complying with the Investment Committee's mandate to contact certain companies. Also, the Corporate Governance Office will use the reports as a resource when appropriate in voting proxies.

¹ This moratorium sunsets, by its own terms, on January 1, 2008.

The Executive Summary of the Holocaust Era report is provided as Attachment 1. The report notes that CalPERS' investment in companies that are facing lawsuits over their use of forced or slave labor during World War II is extremely small. The report identifies eight companies in CalPERS' portfolio that are currently facing lawsuits filed in Japan over their alleged use of Chinese or Korean civilians as forced laborers.

The Executive Summary of the Northern Ireland Report is provided as Attachment 2. The report provides information on CalPERS portfolio companies with operations in Northern Ireland, relating to workforce composition, fair employment policies and practices (including MacBride Principles), and about formal discrimination complaints. The report identifies fifteen companies in CalPERS' portfolio that have repeatedly received (defined as receiving more than one formal complaint that is still pending) formal discrimination grievances.

Staff was also directed to write to the Legislature and give them the option to receive a hard copy of the reports to be posted on the CalPERS website. This inquiry (**Attachments 3 and 4**) of the Legislature is included in the transmittal letter for each report to be sent to the Legislative Counsel, the Secretary of the Senate, and the Chief Clerk of the Assembly.

Attachment 5 contains the letter to be sent to eight companies included in the Holocaust-Era Report that are currently facing lawsuits in Japan over their use of Chinese or Korean civilians as forced laborers. The eight companies include: Dowa Mining Co., Ltd; Furukawa Co., Kajima Corporation, Mitsubishi Materials Corp., Mitsui Mining and Smelting, Nippon Steel Corp., Nishimatsu Construction Co., and Taisei Corp.

Attachment 6 contains the letter to be sent to fifteen companies identified in the Northern Ireland Report that have repeatedly received formal discrimination grievances. The fifteen companies include Allied Irish Banks, Barloworld, BG Group, Bombardier, BT Group, Danske Bank, Fraport Group, GUS, HBOS, Independent News & Media, Johnston Press, Kerry Group, Nortel Networks, Sainsbury, J., and Tesco.

Once the Committee approves the reports, staff will distribute the reports to the Legislature as well as post the reports on CalPERS' website.

V. STRATEGIC PLAN:

This is not a product of either the 2005-06 Strategic Annual Plans.

VI. RESULTS/COSTS:

The cost of services from Investor Research Responsibility Center to compile these reports is \$51,000.

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